

9-302A111

OCT 29 1979

LAW OFFICES

CONNER, MOORE & CORBER

1747 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D. C. 20006

30.00

ICC Washington, D. C.

October 29, 1979

(202) 833-3500

ROBERT J. CORBER

CABLE ADDRESS: ATOMLAW

10954-B
RECORDATION NO. Filed 1425

OCT 29 1979-3 40 PM

INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Office of the Secretary - Room 2209
Washington, D. C. 20423

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to former section 20c of the Interstate Commerce Act, 49 USC §11303, is a document relating to the railroad equipment described and marked in accordance with the attached Schedule A.

Sublease Assignment, Assumption and Supplement Agreement dated as of October 15, 1979 among Brae Corporation, First Security State Bank of Utah and Mississippi & Skuna Valley Railroad Company

The names and addresses of the parties to the transaction evidenced by the foregoing document are as follows:

Assignor: Brae Corporation
Three Embarcadero Center - Suite 1760
San Francisco, CA 94111

Lessee-Trustee: First Security State Bank of Utah
Post Office Box 30007
79 South Main Street
Salt Lake City, UT 84125

Sublessee: Mississippi & Skuna Valley Railroad Co.
Bruce, MS 38915

This document is related to the transactions evidenced by documents previously filed and recorded under recordation number 10954. It is accordingly requested that the enclosed document be assigned the first available subletter under Recordation No. 10954, which is believed to be "B." It is further requested that the document be indexed in accordance with the names of the parties to the transaction stated above.

Enclosed is a check payable to the ICC in the amount of \$50.00, the prescribed fee for filing and recordation of the document.

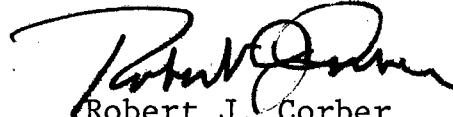
Ms. Mergenovich

-2-

October 29, 1979

Please return to the person presenting this letter your letter confirming such filing and recordation, the fee receipt thereof and all copies of the document not required for filing.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert J. Corber", written in a cursive style.

Robert J. Corber
Attorney for Brae Corporation

mbm

Enclosures

SCHEDULE A

Equipment Description

<u>Lessee/User</u>	<u>Car Number and Description</u>	<u>Quantity</u>
Mississippi and Skuna Valley Railroad	7000 cubic foot chip cars MSV1440-66	27

Interstate Commerce Commission
Washington, D.C. 20423

10/29/79

OFFICE OF THE SECRETARY

Robert J. Corber, Atty.
Conner, Moore & Corber
1747 Pennsylvania Avenue, N.W.
Washington, D. C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/29/79 at 3:40pm, and assigned recordation number(s). 10954-B

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

10954-B
RECORDATION NO. Filed 1425

OCT 29 1979 -3 40 PM

INTERSTATE COMMERCE COMMISSION

SUBLEASE ASSIGNMENT, ASSUMPTION AND SUPPLEMENT AGREEMENT dated as of October 15, 1979, among BRAE CORPORATION, a Delaware corporation (the "Assignor"), FIRST SECURITY STATE BANK, not in its individual capacity but solely as Lease-Trustee (the "Lessee"), and MISSISSIPPI & SKUNA VALLEY RAILROAD COMPANY (the "Sublessee").

WHEREAS certain banks (collectively the "Owners" and individually an "Owner"), as beneficiaries of the Series 1 Trust established pursuant to the Master Trust Agreement dated as of February 2, 1976, as supplemented with THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Owner-Trustee (the "Owner-Trustee") propose to authorize and direct the Owner-Trustee to enter into a Purchase Order Assignment dated as of the date hereof with the Assignor and providing for the assignment to the Owner-Trustee of the rights to purchase certain units of railroad equipment (the "Equipment") described in Annex A hereto from ORTNER FREIGHT CAR COMPANY (the "Builder");

WHEREAS the Lessee will lease on an interim basis from the Owner-Trustee all the Equipment pursuant to a Lease Agreement (the "Interim Lease") dated as of the date hereof;

WHEREAS the Assignor has entered into a Lease Agreement dated July 12, 1979 (such Lease Agreement, as supplemented hereby, being hereinafter called the "Sublease"), with the Sublessee, providing for the lease by Assignor to the Sublessee and the term Sublease as used hereinafter shall mean the Sublease as it relates to the Equipment of certain units of railroad equipment;

WHEREAS the parties hereto shall herein supplement the Sublease to specify the Equipment as included thereunder;

WHEREAS the Assignor shall herein assign to the Lessee all its right, title and interest as lessor under the Sublease to the extent that the Sublease relates to the Equipment;

WHEREAS the Lessee shall herein assume the obligations and duties of the Assignor under the Sublease (other than under Sections 4B, 4C and 4D thereof) to the extent that the Sublease relates to the Equipment and the Sublessee shall release the Assignor from such obligations and duties to the extent so assumed;

WHEREAS the Lessee proposes to assign the Sublease, for security purposes, to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement, dated as of the date hereof (the "Interim Sublease Assignment"), until the Lessee fulfills its obligations under the Interim Lease;

WHEREAS the Owner-Trustee may finance a portion of the purchase price of the Equipment on an interim basis by borrowing from one or more lenders (the "Interim Lender") and may secure such borrowing by granting the Interim Lender a security interest in the Equipment, by assigning to the Interim Lender certain rights under the Interim Lease and by reassigning to the Interim Lender pursuant to a Reassignment of Sublease and Agreement (the "Interim Sublease Reassignment") certain rights under the Sublease and the Interim Sublease Assignment;

WHEREAS the Owner-Trustee proposes to replace the interim financing arrangements with long-term financing arrangements; and

WHEREAS the Sublessee shall herein consent to the Interim Sublease Assignment and the Interim Sublease Reassignment and agree to enter into an amendment and restatement of this Agreement in connection with the long-term financing of the Equipment;

NOW THEREFORE, in consideration of the covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

1. The Assignor hereby assigns, transfers and sets over unto the Lessee outright, and not as collateral security, all the Assignor's rights, titles and interests, powers, privileges, and other benefits in, to and under the Sublease as and only to the extent that the Sublease relates to the Equipment including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable from the Sublessee by the Assignor under or pursuant to the provisions of the Sublease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments") and the right to make all waivers, modifications and agreements to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, to amend and supplement the Sublease, and to do any and all other things whatsoever which the Assignor is or may become entitled to do under or with respect to the Sublease. In furtherance of the foregoing assignment, the Assignor hereby irrevocably authorizes and empowers the Lessee in its own name, or in the name of its nominee, or in the name of the Assignor or as attorney for the Assignor to ask, demand, sue for, collect and receive any and all Payments to which the Assignor is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof. The Assignor represents and warrants to the Lessee and the Owner-Trustee that the Assignor has not entered into any assignment of its interests in the Sublease other than this Agreement, has not entered into any amendment or modification of the Sublease and has not created or incurred or suffered to exist with respect to the Sublease or with respect to any of its interests therein any claim, lien or charge arising by, through or under the Sublessee.

2. Except as provided in Section 3 hereof, the Lessee hereby assumes and agrees to pay, perform and discharge all obligations and liabilities of the Assignor arising under the Sublease as and only to the extent that the Sublease relates to the Equipment.

3. The Assignor hereby agrees, as agent for the Sublessee, to continue to perform and discharge its obligations under Sections 4B, 4C and 4D of the Sublease as and only to the extent that such obligations relate to the Equipment.

4. The Sublessee hereby releases and discharges the Assignor from the payment, performance and discharge of the obligations and liabilities of the Assignor under the Sublease which are assumed by the Lessee pursuant to Section 2 hereof.

5. The Sublease is hereby supplemented by substituting Schedule Nos. TWO, THREE, FOUR AND FIVE in place of the Equipment Schedule dated July 12, 1979, attached thereto.

6. The Sublessee upon receipt of a copy of the Interim Sublease Assignment, consents to all the terms and conditions of the Interim Sublease Assignment and any Interim Sublease Reassignment and agrees that:

- (i) it will pay all Payments due and to become due under the Sublease or otherwise in respect of the Equipment directly to the Owner-Trustee, at the address specified by Owner-Trustee, by bank wire transfer of immediate available funds; provided, that if an Interim Sublease Reassignment shall have been made, upon receipt of a copy thereof, all such Payments shall be made to the Interim Lender;
- (ii) it shall not be entitled to any abatement of rent or additional rent, reduction thereof or setoff against or recoupment of rent or additional rent, including, but not limited to abatements, reductions, setoffs or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Sublessee against the Lessee, the Builder, the Owner-Trustee, the Interim Lender or otherwise;
- (iii) the Owner-Trustee and any Interim Lender shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Sublessee under the Sublease to the extent that it relates to the Equipment as though the Owner-Trustee and any Interim Lender were named therein as the Lessee;
- (iv) neither the Owner-Trustee nor any Interim Lender shall, by virtue of the Interim Sublease Assignment or the Interim Sublease Reassignment, be or become subject to any liability or obligation under the Sublease or otherwise; and
- (v) the Sublease to the extent that it relates to the Equipment shall not, without the prior written consent of the Owner-Trustee and any Interim Lender, be terminated, amended or modified, nor shall any waiver or release be given or accepted with respect thereto nor shall any action be taken or omitted by the Sublessee the taking or omission of which might result in an alteration or impairment of the Sublease, the Interim Sublease Assignment, any Interim Sublease Reassignment if any or this Agreement or of any of the rights created by any there of.
- (vi) all other terms and conditions of the Interim Sublease Assignment and Interim Sublease Reassignment shall not be deemed to modify or amend the terms and conditions of the Sublease.

7. The parties hereto acknowledge that the Owner-Trustee contemplates arranging for long-term financing of the Equipment and, in furtherance of such arrangements, among other matters, expects there will be executed and delivered an amended and restated Lease, Assignment of Sublease and Reassignment of Sublease in replacement of the Interim Lease, Interim Sublease Assignment and Interim Sublease Reassignment, and that the parties hereto will enter into an amended and restated Sublease Assignment, Assumption and Supplement Agreement in replacement of this Agreement, and the parties hereto hereby agree to enter into such amended and restated Agreement.

8. The Sublessee hereby makes the representations and warranties set forth in Section 11 of the Sublease on and as of the date of execution hereof as if each reference therein to the Sublease included a reference to this Agreement and each reference therein to the Assignor included a reference to the Lessee and the Owner-Trustee.

9. The Sublessee confirms, as provided in Section 7A of the Sublease, that notwithstanding anything to the contrary contained in the Sublease, all rights and obligations of the Sublessee under the Sublease and in and to the Equipment are subject and subordinate to the rights of the Owner-Trustee under the Lease and any lender under any agreement between a lender and the Owner-Trustee relating to the Equipment. If an Event of Default should occur under the Lease or any such agreement, the Owner-Trustee or the Interim Lender may terminate the Sublease (or rescind its termination), all as provided therein. The foregoing shall be subject to the Agreement dated as of July, 1979 between BRAE CORPORATION and WEYERHAEUSER COMPANY.

10. The Sublessee will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Lessee in order to confirm the interest of the Lessee hereunder.

11. This Agreement shall be governed by the laws of the State of New York but the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303.

12. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Owner-Trustee shall be deemed to be the original and all others shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by all the parties so long as each party shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names by persons thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY BANK, not in its
individual capacity but solely
as Lease-Trustee

By _____

(CORPORATE SEAL)

ATTEST:

Ernest L. Brazil

BRAE CORPORATION

By _____

(CORPORATE SEAL)

ATTEST:

8. The Sublessee hereby makes the representations and warranties set forth in Section 11 of the Sublease on and as of the date of execution hereof as if each reference therein to the Sublease included a reference to this Agreement and each reference therein to the Assignor included a reference to the Lessee and the Owner-Trustee.

9. The Sublessee confirms, as provided in Section 7A of the Sublease, that notwithstanding anything to the contrary contained in the Sublease, all rights and obligations of the Sublessee under the Sublease and in and to the Equipment are subject and subordinate to the rights of the Owner-Trustee under the Lease and any Interim Lender under any agreement between an Interim Lender and the Owner-Trustee relating to the Equipment. If an Event of Default should occur under the Lease or any such agreement, the Owner-Trustee or the Interim Lender may terminate the Sublease (or rescind its termination), all as provided therein. The foregoing shall be subject to the Agreement dated as of July 1979, between Assignor and Weyerhaeuser Company.

10. The Sublessee will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Lessee in order to confirm the interest of the Lessee hereunder.

11. This Agreement shall be governed by the laws of the State of New York but the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303.

12. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Owner-Trustee shall be deemed to be the original and all others shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by all the parties so long as each party shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names by persons thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as
Lease-Trustee

By: 

(CORPORATE SEAL)
ATTEST:



BRAE CORPORATION

By: _____

(CORPORATE SEAL)
ATTEST:

MISSISSIPPI & SKUNA VALLEY RAILROAD. COM-
PANY

By:

SECRETARY

Glenn P. Vanderschuer

(CORPORATE SEAL)

ATTEST:

William J. Rankin

STATE OF UTAH
COUNTY OF SALT LAKE

)
):ss:
)

On this 26th day of October, 1979, before me personally appeared JOHN F. [unclear], to me personally known, who being by me duly sworn, says that he is a Manager of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said Bank and that said instrument was signed and sealed on behalf of said Bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Bank.

[Signature]
NOTARY PUBLIC

(NOTARIAL SEAL)

My Commission Expires: 9-7-82

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

)
):ss:
)

On this _____ day of _____, 1979, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a _____ of BRAE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

NOTARY PUBLIC

(NOTARIAL SEAL)

My Commission Expires: _____

STATE OF UTAH

COUNTY OF SALT LAKE

)
) :ss:
)

On this _____ day of _____, 1979, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a _____ of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said Bank and that said instrument was signed and sealed on behalf of said Bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Bank.

NOTARY PUBLIC

(NOTARIAL SEAL)

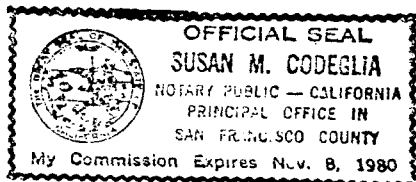
My Commission Expires: _____

STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

)
) :ss:
)

On this 26th day of October, 1979, before me personally appeared Berry Rierson, to me personally known, who being by me duly sworn, says that he is a Vice President of BRAE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.



Susan M. Codeglia
NOTARY PUBLIC

(NOTARIAL SEAL)

My Commission Expires: Nov. 8, 1980

STATE OF WASHINGTON

COUNTY OF King

)
)SS:
)

On this 25th day of October, 1979, before me personally appeared Alan P. Vandeventer, to me personally known, who being by me duly sworn, says that he is a Secretary of MISSISSIPPI & SKUNA VALLEY RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Beverly E. Knight
NOTARY PUBLIC

(NOTARIAL SEAL)

My Commission Expires: Feb-1, 1981

EQUIPMENT SCHEDULE No.

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Owner-Trustee ("Lessor") hereby leases the following Cars to FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Lease-Trustee ("Lessee") on the terms and conditions contained in the Lease Agreement to which this Schedule is attached.

A.A.R. Mech. Design	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
	7,000 cubic foot Chip Cars	MSV 1440-66					27

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Lease-Trustee.

BY: _____

TITLE: _____

DATE: _____

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity, but solely as Owner-Trust

BY: _____

TITLE: _____

DATE: _____